

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MEMORANDUM

JS 6

Case No. EDCV 12-1329 DSF (DTBx)

Date 8/30/12

Title Margarita Pena v. CSM Bakery Products, N.A.

Present: The
Honorable

DALE S. FISCHER, United States District Judge

Debra Plato

Not Present

Deputy Clerk

Court Reporter

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

Not Present

Proceedings: (In Chambers) Order REMANDING Case to State Court for Lack of Subject Matter Jurisdiction

This case was removed on August 10, 2012 based on diversity jurisdiction. However, the notice of removal does not establish by a preponderance of the evidence that the amount in controversy exceeds \$75,000. Plaintiff earned approximately \$30,000 per year prior to her termination. Contrary to the representation in the notice of removal that “Plaintiff alleges that she was terminated on March 20, 2011,” (Notice of Rem. ¶ 17), the complaint actually alleges that Plaintiff was terminated on March 20, 2012, (Compl. ¶ 11). This obviously makes a large difference in the amount in controversy. Virtually all of the amount in controversy allegations in the notice of removal involve assumptions that have no apparent basis in the complaint, e.g., that Plaintiff “conservatively” seeks five years worth of wages. Further, the notice of removal discusses punitive damages, but the complaint does not mention punitive damages.

The case is REMANDED to the Superior Court of California, County of San Bernardino.

IT IS SO ORDERED.